
THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

CONSTANTINO CUARA R.,

Plaintiff,

v.

PENTAGON, et al.,

Defendants.

**ORDER ADOPTING [8] REPORT AND
RECOMMENDATION**

Case No. 2:23-cv-00525-DBB-CMR

District Judge David Barlow

The Report and Recommendation¹ issued by United States Magistrate Judge Cecilia M. Romero on August 18, 2023 recommends that the court dismiss Plaintiff Constantino Cuara R.'s (Plaintiff) action pursuant to 28 U.S.C. § 1915. The magistrate judge reasoned that dismissal was proper because Plaintiff's action is frivolous and fails to state a claim.² The parties were notified of their right to file objections to the Report and Recommendation within 14 days of its service pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72.³ No party filed an objection. Because no party filed a written objection by the specified deadline, the Court reviews the Report and Recommendation for clear error. The Court finds that the Magistrate Judge's analysis and conclusions are sound. No clear error appears on the face of the record.

The Court adds to the Report and Recommendation that further amendment to Plaintiff's action would be futile. Thus, Plaintiff's action is dismissed with prejudice, which is appropriate

¹ ECF No. 8 at 1.

² *Id.* at 4.

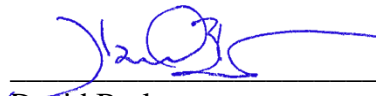
³ *Id.*

"where a complaint fails to state a claim under Rule 12(b)(6) and granting leave to amend would be futile."⁴

Accordingly, IT IS HEREBY ORDERED that the Report and Recommendation is ADOPTED.⁵ The Court DISMISSES with prejudice the Plaintiff's action as frivolous and for failing to state a claim upon which can may be granted.

Signed September 21, 2023.

BY THE COURT



David Barlow
United States District Judge

⁴ *Gaddy v. Corp. of President of Church of Jesus Christ of Latter-Day Saints*, No. 2:19-cv-0554, 2023 WL 2665894, at *27 (D. Utah Mar. 28, 2023), *motion for relief from judgment denied sub nom. Gaddy v. Church of Jesus Christ of Latter-day Saints*, No. 2:19-cv-00554, 2023 WL 4763981 (D. Utah July 26, 2023) (quoting *Brereton v. Bountiful City Corp.*, 434 F.3d 1213, 1219 (10th Cir. 2006)).

⁵ *Id.*